

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SHERMAN ALLEN,)	
)	
Plaintiff,)	2:19-cv-01258-RJC
)	
vs.)	
)	District Judge Robert J. Colville
SECRETARY JOHN WETZEL,)	
REGIONAL SECRETARY TREVOR)	Magistrate Judge Maureen P. Kelly
WINGARD, SUPERINTENDENT ERIC)	
ARMEL, CO ROBERT HOLLOWOOD, CO)	
PAUL GAFFEY, SGT. CHRISTOPHER)	
SHELDON, LIEUT. POSKA, LIEUT.)	
DAILEY, LIEUT. RUSNAK, CO JUAN)	
MACIAS, CO MERRILL, CO WHEELER,)	
CO DORAN, CO HOLT, CO EICHER, CO)	
RUBISH, CO HIRAK, CO CUMMINGS,)	
and JOHN and JANE DOES,)	
)	
Defendants.)	

ORDER OF COURT

Before the Court is the Honorable Maureen P. Kelly’s September 7, 2022 Report and Recommendation (ECF No. 154), which recommends that the Motion for Summary Judgment (ECF No. 142) filed by Defendants Robert Hollowood (“Hollowood”), Paul Gaffey (“Gaffey”), Christopher Sheldon (“Sheldon”), Lieut. Poska (“Poska”), Lieut. Dailey (“Dailey”), Lieut. Rusnak (“Rusnak”), Juan Macias (“Macias”), CO Merrill (“Merrill”), CO Wheeler (“Wheeler”), CO Doran (“Doran”), CO Holt (“Holt”), CO Eicher (“Eicher”), CO Rubish (“Rubish”), CO Hirak (“Hirak”), CO Cummings (“Cummings”), John Wetzel (“Wetzel”), Trevor Wingard (“Wingard”), and Eric Armel (“Armel”) (collectively, “Defendants”) be granted in part and denied in part. Objections to Judge Kelly’s Report and Recommendation were due by September 21, 2022. No objections were filed, and the matter is now ripe for disposition.

With respect to dispositive matters, the reviewing district court must make a de novo determination of those portions of the magistrate judge's report and recommendation to which objections are made. 28 U.S.C. § 636(b)(1)(B)-(C); Fed. R. Civ. P. 72(b)(3). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The United States Court of Appeals for the Third Circuit has explained that, "even absent objections to the report and recommendation, a district court should 'afford some level of review to dispositive legal issues raised by the report,'" and has "described this level of review as 'reasoned consideration.'" *Equal Employment Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir. 2017) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)).

Upon reasoned consideration of the September 7, 2022 Report and Recommendation and the relevant docket entries, it is hereby ORDERED as follows:

The Court agrees with the thorough and well-reasoned analysis set forth in Judge Kelly's Report and Recommendation (ECF No. 154), and the Court accepts and adopts Judge Kelly's Report and Recommendation in its entirety as the opinion of the Court with respect to Defendants' Motion for Summary Judgment. Defendants' Motion for Summary Judgment (ECF No. 142) is granted as to the following claims:

1. Count I against Merrill, Wheeler, Doran, Holt, Eicher, Rubish, Hiram and Cummings;
2. Count II against Merrill, Wheeler, Doran, Holt, Eicher, Rubish, Hiram and Cummings;
3. Count III
4. Count IV
5. Count V
6. Count VI against Merrill, Wheeler, Doran, Holt, Eicher, Rubish, Hiram and Cummings;

7. Count VII against Merrill, Wheeler, Doran, Holt, Eicher, Rubish, Hirak and Cummings;

and

8. Count VIII.

The Motion for Summary Judgment is denied in all other respects.

BY THE COURT:

s/Robert J. Colville
Robert J. Colville
United States District Judge

DATED: November 22, 2022

cc/ecf: All counsel of record